

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: ) CHAPTER 13  
Shirley Louise Gresham )  
DEBTOR. ) CASE NO. 18-66456-PMB  
)  
)  
)

**CHAPTER 13 TRUSTEE'S  
OBJECTION TO CONFIRMATION & MOTION TO DISMISS**

COMES NOW Melissa J. Davey, Chapter 13 Trustee, and objects to confirmation of the plan and files this motion to dismiss under 11 U.S.C. Section 1307(c), for cause, including the following reasons:

1. The Debtor has failed to pay the Chapter 13 Plan payments to the Trustee as required by 11 U.S.C. Section 1326.

2. In accordance with General Order Nos. 18-2015 and/or 22-2017 and the Statement of Rights and Responsibilities, the Debtor's attorney should timely provide proof of Debtor's \$1,171.00 per month Social Security income, \$293.00 per month pension income, and \$1,601.00 per month Social Security income (from Debtor's ex-spouse who resides in the household) to the Chapter 13 Trustee. 11 U.S.C. Sections 521(a)(1), 1325(a)(3), 1325(a)(6), 1325(b)(1)(B) and Bankruptcy Rule 1007.

3. Pursuant to testimony at the meeting of creditors, the Debtor has not filed all tax returns that have come due in the four (4) years preceding the filing of this case, in violation of 11 U.S.C. Section 1308 (a). The Debtor should provide evidence that the tax returns have been filed for 2014, 2015, 2016, and 2017 or serve an appropriate affidavit on the taxing authorities.

4. The funding of post-petition mortgage installments has not been maintained in the above-styled Chapter 13 case; thereby, rendering the present budget and proposed Plan infeasible, 11 U.S.C. Section 1325(a)(6).

5. Section 3.6 of the proposed Chapter 13 plan either (1) fails to provide an interest rate to be applied to any allowed secured claims not treated specifically under the plan, preventing the Trustee from properly administering the plan, or (2) improperly crams down the interest rate to less than the current national prime interest rate. 11 U.S.C. Section 1325(a)(5)(B). *See Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).

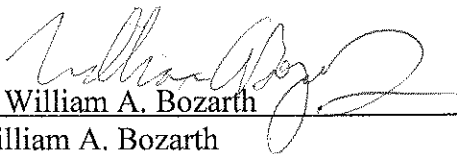
6. The Chapter 13 Trustee is unable to administer the Plan, as Section 1.3 and Section 8 of the Chapter 13 Plan are inconsistent regarding non-standard provisions.

Melissa J. Davey, Chapter 13 Trustee  
Suite 200 – 260 Peachtree Street, N.W.  
Atlanta, Georgia 30303  
(678) 510-1444

7. The Chapter 13 Trustee requests documentation on how approximately \$8,220.00 from a personal injury settlement was used in order to determine whether the Chapter 13 Plan complies with 11 U.S.C. Sections 1325(a)(3), (a)(4), (a)(6) and/or (b)(1)(B).

8. Prior to filing, Debtor transferred approximately \$6,000.00 to Debtor's daughter in 2018. The Trustee requests documentation supporting the transfer, including bank account statements or other proof of payment. The Trustee also requests a statement from the Debtor showing the justification for and purpose of the transfer and complete contact information for the transferee, so that the Trustee can determine whether the transfer is voidable under 11 USC Sections 546, 547 and/or 548 and whether the Plan was proposed in good faith pursuant to 11 USC Sections 1325(a)(3) and 1325(a)(7).

WHEREFORE, Trustee moves this Honorable Court to inquire into the above objections at the separately scheduled and noticed confirmation hearing, deny confirmation of the Chapter 13 plan, dismiss the case, and for such other and further relief that this Court deems just and proper.

  
/s/ William A. Bozarth

William A. Bozarth

Attorney for Chapter 13 Trustee

GA Bar No. 940530

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DEBTOR.	)	

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**CERTIFICATE OF SERVICE**

This is to certify that I have this day served:

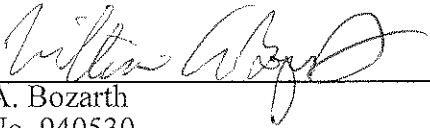
DEBTOR(S):  
SHIRLEY LOUISE GRESHAM  
2283 ADDISON ROAD  
MARIETTA, GA 30066

DEBTOR(S) ATTORNEY:  
BURROW & ASSOCIATES, LLC ATTORNEYS AT LAW  
2280 SATELLITE BLVD  
BLDG A, SUITE 100  
DULUTH, GA 30097

in the foregoing matter with a copy of this Objection to Confirmation & Motion to Dismiss by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

Tuesday, November 20, 2018

/s/

  
William A. Bozarth  
GA Bar No. 940530  
Attorney for Melissa J. Davey, Chapter 13 Trustee  
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Atlanta, GA 30303  
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